

AMENDED IN ASSEMBLY JULY 5, 2007

AMENDED IN ASSEMBLY JUNE 18, 2007

AMENDED IN SENATE MARCH 26, 2007

## SENATE BILL

**No. 316**

---

### Introduced by Senator Yee

February 16, 2007

---

An act to amend Sections 923.5 and 11558 of the Insurance Code, and to add Section 77.7 to the Labor Code, relating to insurance.

#### LEGISLATIVE COUNSEL'S DIGEST

SB 316, as amended, Yee. Insurance.

Existing law requires insurers to maintain certain minimum reserves for outstanding losses and loss expenses for various coverages included in the lines of business described in the annual statement.

This bill would delete workers' compensation insurance from this requirement.

Existing law provides that the Commission on Health and *Safety and Workers' Compensation* shall conduct a continuing examination of the workers' compensation system, as specified, and issue an annual report to be made available to the Governor, the Legislature, and the public, upon request.

This bill would require the ~~commission and the Department of Insurance~~ *commission* to examine the causes of the number of insolvencies among workers' compensation insurers within the past 10 years. It would require that by June 1, 2009, the report be published on ~~their~~ *its* Internet Web-sites *site*, and the Legislature and Governor be informed of its availability.

The bill would specify the content, method of obtaining data, confidentiality of data, maximum cost, and other information relating to the report. This bill, by authorizing the payment of one-half the costs for the report, as specified, from the Workers' Compensation Administration Revolving Fund, would make an appropriation.

Vote: majority. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 923.5 of the Insurance Code is amended  
2 to read:

3 923.5. Each insurer transacting business in this state shall at  
4 all times maintain reserves in an amount estimated in the aggregate  
5 to provide for the payment of all losses and claims for which the  
6 insurer may be liable, and to provide for the expense of adjustment  
7 or settlement of losses and claims.

8 The reserves shall be computed in accordance with regulations  
9 made from time to time by the commissioner. The promulgation  
10 of the regulations by the commissioner, or any changes thereto or  
11 amendments thereof, shall be in accordance with the procedure  
12 provided in Chapter 3.5 (commencing with Section 11340) of Part  
13 1 of Division 3 of Title 2 of the Government Code. The  
14 commissioner shall make the regulations upon reasonable  
15 consideration of the ascertained experience and the character of  
16 such kinds of business for the purpose of adequately protecting  
17 the insured and securing the solvency of the insurer.

18 With respect to liability and common carrier liability, the  
19 regulations shall be consistent with Section 11558.

20 The commissioner may prescribe the manner and form of  
21 reporting pertinent information concerning the reserves provided  
22 for in this section.

23 This section shall not apply to life insurance, title insurance,  
24 disability insurance, mortgage insurance, or mortgage guaranty  
25 insurance.

26 SEC. 2. Section 11558 of the Insurance Code is amended to  
27 read:

28 11558. The minimum reserve requirements prescribed by the  
29 commissioner in regulations promulgated pursuant to Section 923.5  
30 for outstanding losses and loss expenses for each of the most recent

1 three years for coverages included in the lines of business described  
2 in the annual statement as liability other than automobile bodily  
3 injury, and for automobile liability bodily injury, shall be not less  
4 than 60 percent of earned premiums during each year less the  
5 amount already paid for losses and expenses incidental thereto  
6 incurred during each such year.

7 The commissioner may prescribe the manner and form of  
8 reporting pertinent information concerning the reserves provided  
9 for in this section.

10 SEC. 3. Section 77.7 is added to the Labor Code, to read:

11 77.7. (a) A study shall be undertaken to examine the causes  
12 of the number of insolvencies among workers' compensation  
13 insurers within the past 10 years. The study shall be conducted by  
14 an independent research organization under the ~~joint~~ direction of  
15 the commission and the Department of Insurance. Not later than  
16 July 1, 2009, the commission and the department shall publish the  
17 report of the study on ~~their Internet Web sites~~ *it's Internet Web*  
18 *site* and shall inform the Legislature and the Governor of the  
19 availability of the report.

20 (b) The study shall include an analysis of the following: the  
21 access to capital for workers' compensation insurance from all  
22 sources between 1993 and 2003; the availability, source, and risk  
23 assumed of reinsurers during this period; the use of deductible  
24 policies and their effect on solvency regulation; market activities  
25 by insurers and producers that affected market concentration;  
26 activities, including financial oversight of insurers, by insurance  
27 regulators and the National Association of Insurance  
28 Commissioners during this period; the quality of data reporting to  
29 the commissioner's designated statistical agent and the accuracy  
30 of recommendations provided by the commissioner's designated  
31 statistical agent during this period of time; and underwriting, claims  
32 adjusting, and reserving practices of insolvent insurers. The study  
33 shall also include a survey of reports of other state agencies  
34 analyzing the insurance market response to rising system costs  
35 within the applicable time period.

36 (c) Data reasonably required for the study shall be made  
37 available by the California Insurance Guarantee Association,  
38 Workers' Compensation Insurance Rating Bureau, third-party  
39 administrators for the insolvent insurers, whether prior to or after  
40 the insolvency, the State Compensation Insurance Fund, and the

1 Department of Insurance. The commission shall also include a  
2 survey of reports by the commission and other state agencies  
3 analyzing the insurance market response to rising system costs  
4 within the applicable period of time.

5 (d) The cost of the study is not to exceed one million dollars  
6 (\$1,000,000). Confidential information identifiable to any natural  
7 person or insurance company held by any agency or organization  
8 or association or other person or entity shall be released to  
9 researchers upon satisfactory agreement to maintain confidentiality.  
10 Information or material that is not subject to subpoena from the  
11 agency or organization or association or other person or entity  
12 shall not be subject to subpoena from the commission or the  
13 contracted research organization.

14 (e) The costs of the study shall be borne one-half by the  
15 commission from funds derived from the Workers' Compensation  
16 Administration Revolving Fund and one-half by insurers from  
17 assessments allocated to each insurer based on the insurer's  
18 proportionate share of the market as shown by the Market Share  
19 Report for Calendar Year 2006 published by the Department of  
20 Insurance.

21 (f) In order to protect individual company trade secrets, this  
22 study shall not lead to the disclosure of, either directly or indirectly,  
23 the business practices of any company that provides data pursuant  
24 to this section. This prohibition shall not apply to insurance  
25 companies that have been ordered by a court of competent  
26 jurisdiction to be placed in liquidation under the supervision of a  
27 liquidator or other authority.